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Commerce ITA for Loustaunau and Hoffman

SENSITIVE

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SUBJECT: YEMEN SCENESETTER FOR COMMERCE ASSISTANT SECRETARY
FOR MARKET ACCESS AND COMPLIANCE LASH

REF A) SANAA 2776
B) Sanaa 2136

1. (sbu) Embassy Sanaa warmly welcomes you and your team to Sanaa, Yemen, December 7-8. You will be the first visitor from the Department of Commerce since Deputy Assistant Secretary Molly Williamson in May 2001. Your visit will

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afford an opportunity for follow-on talks with the Yemeni businessmen you met on the margins of the September Yemen Days symposium. Your meetings with ROYG officials will provide an important forum to press Yemeni officials and businessmen to improve the tendering process and give due regard to U.S. bidders and to encourage Yemen's continued progress on WTO accession. You will also find your Yemeni counterparts eager to hear about the U.S. Trade agenda, specifically the Middle East Free Trade Area and how Yemen might benefit.

2. (U) WHILE MAINTAINING SUSTAINED SECURITY COOPERATION WITH YEMEN IS A KEY OBJECTIVE, USAID REOPENED ITS OFFICE IN JUNE AND AS PART OF THE MISSION DEVELOPMENT TEAM IS FOCUSING ON THE EDUCATION, HEALTH AND AGRICULTURE SECTORS. OUR MIDDLE EAST PARTNERSHIP INITIATIVE (MEPI) GRANTS IN THE AREA OF DEMOCRACY HELPED FUND DOMESTIC AND INTERNATIONAL ELECTION OBSERVERS ELECTION ADMINISTRATIONS FOR THE APRIL 2003 PARLIAMENTARY ELECTIONS -- A STEP FORWARD FOR DEMOCRACY IN YEMEN. EMBASSY SANAA LOOKS FORWARD TO BEING ABLE TO EXPAND ITS ECONOMIC ASSISTANCE THROUGH BOTH USAID AND MEPI. THE MISSION IS ALSO WORKING WITH YEMEN TO IMPROVE ITS CHANCES FOR QUALIFYING FOR THE MILLENNIUM CHALLENGE ACCOUNT (MCA) IN THE FUTURE.

ECONOMIC OVERVIEW

3. (u) One of the 25 poorest and least developed countries in the world, Yemen's real GDP per capita is approximately US\$481. According to the World Bank, GDP growth for 2002 was 2.9 percent, which does not match population growth of 3.5 percent per year. Unemployment is estimated to be 25-35%, and oil resources, which account for one third of the gross national product and 70% of government revenues, are expected to decline significantly during the next decade. Despite these negative indicators, many international donors praised Yemen's fiscal policy and progress in economic reform throughout the last five years.

Trade and Investment

4. (u) Yemen is considered by the World Bank to be among the most open and trade liberalized countries in the MENA region. However, oil exports represented more than 95 percent of total merchandise exports in 2000. Of the remaining 5 percent, products such as fish, coffee, fruits, and vegetables are low value added. Similar constraints also restrict the ability of Yemeni producers to contribute to internal economic growth and employment creation by exporting their products to markets within Yemen.

5. (sbu) Foreign investors are discouraged from investing in Yemen because the legal structure is weak and commercial courts are ill-equipped to adjudicate disputes. Proctor and Gamble's (P&G) long standing IPR case (ref a), is an illustrative example of the problems investors face. Judges are often unfamiliar with commercial law, and since the unification of North and South in 1990, conflicting laws remain on the books. Courts are burdened with large caseloads and, often, a case may take years to be heard and then stagnates in the appellate process. If a commercial ruling is won, it is rarely enforced. Without a clear land-titling system, limited ability to collateralize against property, and courts' reluctance to enforce default judgments against property collateral, domestic investors are also reluctant to invest their money into new businesses.

6. (sbu) One of the greatest obstacles to direct foreign investment in Yemen is the non-transparent and protracted nature of the tendering process. Two American firms, Delma

and Fusion, have had difficulty with the confidentiality of their bids. There have also been bids awarded to American businesses that were later overturned and rewarded to their competitors. Post has raised concerns about the tendering process at the highest levels and repeats often that a sound tendering process is necessary for continued American investment in Yemen.

17. (u) The following is an overview of suggested themes to raise at your upcoming meetings.

American Businessmen

18. (u) American Business is dominated by the oil sector in Yemen. Hunt Oil Company has recently renewed its agreement with Yemen to continue their operations until at least 2010. Production in Yemen Hunt Oil's Jannah and Marib fields contribute about 140,000 bpd of Yemen's total 450,000 bpd. Yemen Hunt is the second largest producer in Yemen behind Canadian Nexen, which produces about 240,000 bpd. While output from the Marib concession is falling, the introduction of new technologies is expected to minimize the decline in the near term.

Dinner with Yemeni Businessmen and
Working Level Trade Contacts

19. (u) Post proposes a dinner hosted by DCM Alan Misenheimer with Yemeni businessmen on December 7. This dinner will be a chance to talk with the business delegation you met with on the margins of the Yemen Days celebrations in September. The businessmen are hesitant about, if not against, WTO accession and any information you can provide on WTO and the Middle East Free Trade Agreement (MEFTA) will help promote our dialogue on these issues. Because the businessmen are also a strong lobby, you may also want to raise problems with the investment climate and solicit their input for reforms.

Minister of Industry and Trade Rajeh Sheikh

110. (u) Bio note: Dr. Khaled Rajeh Sheik was born in 1955. He has a PhD in Economic Administration. He has also served as a Cabinet Economic Affairs Officer, as the Assistant Secretary-General of the Supreme Council for Economic and

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Investment Affairs, and as a Regional Consultant for the International Labor Organization. He is an assistant professor at Arwa University. End bio note.

11. (u) Ministry of Industry and Trade (MEIT) officials are moving forward on WTO accession with the help of a five year/seven million Euro grant from the EU. Yemen will also be receiving assistance through the State Department's MEPI program for GCC members and WTO accession. Presently, officials at MEIT are finalizing answers from the 167 questions submitted from the U.S., the EU and Australia on Yemen's Memorandum of Foreign Trade Regime. Officials hope to have their working party meeting early in 2004. Minister Rajeh Sheikh also oversees all intellectual property rights enforcement, and this visit is a good opportunity to raise our desire to see Yemen's Supreme Court's ruling in favor of P&G upheld (ref a).

Minister of Telecommunications and Information Technology al-Moalimi

112. (u) Bio note: Abdul-Malik al-Moalimi was born in 1947. He has a BA in Engineering and a Diploma in Administration. He has also served as Minister of Telecommunications (2001-2003), as Deputy Minister of Education (1998-2001) and as Deputy Minister of Labor and Vocational Training (1990-1992). End bio note.

113. (u) Only 1.5 percent of all Yemenis have phone lines, and the ROYG plans for 3 million additional phone lines by 2009. While there is little American investment presently in this sector, telecommunications and information Technology could be a source of American investment (ref b).

Deputy Prime Minister and Minister for Planning and
International Cooperation Sofan

114. (u) Bio note: Ahmad Mohammed Sofan was born in 1958. He has a High Diploma in Economics and Political Sciences from the UK (1970). He is licensed in Sharia and Law, Sana'a

University (1985). He has been the Minister of Planning and Development since 1991. He has also served as the Minister of Industry, as a Shura Council member and is a Member of Parliament. End bio note.

15. (u) Deputy Prime Minister and Minister for Planning and International Cooperation Sofan will want to hear about the MEFTC and opportunities to expand trade. Post is also closely engaging with Sofan's office on Yemen's potential qualifying for the Millennium Challenge Account (MCA). Presently, Post does not believe Yemen will qualify for MCA in the first year, and in order to qualify in future years it must make progress in the "Governing Justly" category. Particular areas of concern are Yemen's poor court systems, which have a direct impact on foreign direct investment and government effectiveness.

16. (u) If past experience serves as a guide, Sofan will ask to increase trade and investment cooperation with the USG. Recent American experiences with unsound tendering practices and the P&G saga, however, make it necessary for Post to reiterate that the investment climate must improve before American companies will invest in Yemen. We encourage you to echo our message and provide a perspective on what U.S. companies seek in an investment climate.

MISENHEIMER